Hon. Mr. Martin: Could the senator give the name of the author, if that is readily at hand?

Hon. Mrs. Fergusson: It was Dr. Kersell's evidence, and he quoted Mr. Hehner.

Honourable senators, these are only two examples of what may be found in many other acts. I know that there are many other such acts. I am not going to quote them to you, but they give similar authority to the directors who are administering them. Why these specially caught my attention was that at one time I was in close association with the administration of the Old Age Security Act, as was our leader.

Hon. Mr. Martin: We were very good administrators.

Hon. Mrs. Fergusson: Thank you.

Evidence given the House of Commons Special Committee on Statutory Documents was to the effect that this broad delegating pattern is unusual and would not be acceptable in Britain and other Commonwealth countries or in American legislation.

The writer of the article to which I have just referred also questioned that, under the Old Age Security Regulations, after every effort to secure proof of age has been exhausted, the regulations state that the director "may submit the case" to a tribunal. He claims that this is permissive and that the applicant does not have an absolute right of appeal. Perhaps this provision should be mandatory and perhaps, if the regulation had been subject to study by a scrutiny committee of Members of Parliament of either House, it would have been mandatory. However, I cannot imagine an instance where a director would refuse to submit such a contested case to a tribunal, whether he was required to do so or not. Some study should certainly be done to determine whether in Canada we go too far in allowing for such broad delegation of authority as I have mentioned, or whether we do not go far enough in making sure that every person is provided with an absolute right of appeal in all cases where he feels he has not been treated fairly.

As has been pointed out to us in earlier speeches in this debate, Britain and other Commonwealth countries, as well as the United States of America, have realized the growing tendency to make laws by regulations or orders-in-council, or proclamations without the representatives of the people having an adequate opportunity to know about and debate the contents of such legislation, or an adequate opportunity to review it. In some countries, committees have been set up to scrutinize this type of legislation.

In the course of his speech given in his usual erudite and polished manner, Senator Phillips (Rigaud) has told us of the interest aroused in Britain by the publication in 1929 of a book by the Lord Chief Justice entitled *The New Despotism*, which vividly called the attention of the British public to this matter.

Following its publication a parliamentary committee, the Committee on Ministers' Powers, was set up. That committee made a detailed and legalistic report in 1932, but as far as I can learn no action was taken on its recommendations at the time although the report is still referred to quite often and with great respect. It is true that twelve years later in Britain a committee was set up in the House of Commons to scrutinize statutory rules and orders. But twelve years seems rather a long time for action to be taken, if it was felt in Britain that this was so very important.

The report of the Special Committee of the House of Commons on Statutory Instruments to which I referred earlier, gives in detail the action taken by a number of other countries and by some of the provinces of Canada to ensure that rights of citizens are fully protected under statutory documents, and the Standing Senate Committee on Legal and Constitutional Affairs will, I trust, be studying that report.

I think it interesting to note that in Canada the first call for a study in committee of orders-in-council having the effect of legislation was made by the Honourable Brooke Claxton in the Throne Speech debate in 1943.

Hon. Mr. Martin: Do you remember that speech?

Hon. Mrs. Fergusson: I have the quotation in which he said that the "practice of tabling orders in council, is, for all practical purposes, an empty form".

I might say that this was before the Regulations Act of 1950 was passed. The Honourable Mr. Claxton went on to say:

> I suggest that orders in council be referred to a committee for consideration—not all the orders but orders having the effect of legislation of a general nature. Even when they get to the committee, all the orders of that kind would not be discussed; but if the committee felt that one particular matter should be discussed it could take up that order,